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2004 Post-Session Newsletter

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Guarding Liberty:

Legislature Defends Gun Owners' Rights

The Indiana Constitution grants us the freedom to own firearms and store them in our homes. In Indiana, however, if someone is in your home, steals your gun, and injures or kills someone, you can be held liable.

Last April, the Indiana Supreme Court ordered gun owners to store their guns properly in their own homes or face possible lawsuits. We wanted to protect the more than 300,000 gun owners in Indiana who are law-abiding citizens. House Enrolled Act 1349 now prevents gun owners from being sued if their guns were stolen and used to commit a crime.

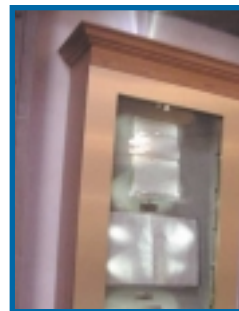
Many opponents of this legislation

argue that the bill grants too much protection to gun owners, especially those who are reckless in storing their guns. On one hand, gun owners should be responsible for their guns and keep them in safe places away from strangers and known criminals. However, this bill does not protect those who are reckless.

Should you be held liable for the unconscionable acts committed by a criminal simply because your property assisted in that act? Clearly, the legislature believes the answer should be no. The protection afforded in the legislation is no different than if someone were to steal your car, which you legally own, and injure someone with it. The driver, not the owner, maintains liability.

"The people shall have a right to bear arms, for the defense of themselves and the State."

*Article 1, Section 32
Indiana Constitution*



HEA 1349 also limits the ability of Indiana's prison inmates to file frivolous lawsuits. Some offenders file lawsuits repeatedly, and this bill allows a judge to dismiss them if they have no merit. These suits tie up the local courts and make it difficult to conduct legitimate business.

This provision attempts to restore social responsibility and place blame where it belongs-on the offender, not the law-abiding citizen.



State Senator Richard Bray

Serving District 37 — Clay, Johnson, Monroe, Morgan, Owen and Putnam counties



Why Do We Have Property Taxes?

The property tax is the most difficult tax to comprehend. There has been a lot of talk in the media lately about the property tax situation in Indiana. Some of the issues regarding property taxes can be confusing.

Property taxes fund the majority of local government operations. According to the National Conference of State Legislatures, local government relies upon property taxes for almost 90 percent of its tax revenue. These taxes pay for a variety of services, including teachers' salaries, school buildings, parks, police and fire protection, libraries, poor relief and other municipal and school functions. In Indiana, state government receives less than one tenth of a percent of all property taxes collected.

Some citizens believe that the property tax is outdated, and unfair to those who have to pay it. Historically, property taxes have funded local governments in the United States since the mid-1800s. Back then, ownership of property was a better indicator of a person's wealth. More property meant more wealth. It was fair to tax a person's land because it was more representative of earnings.

Today, fairness is not so clear. Ownership of property is not always an indication of how much wealth a person has and certainly not indicative of the person's income and ability to pay taxes.

This most recent reassessment evaluated land based upon market value. The Supreme Court ruled that the previous method of reassessment was unfair to homeowners because homes with similar values were assessed differently.

Some citizens have recommended moving toward a system based more on a citizen's ability to pay, such as a higher income and sales tax. No tax is popular, and especially not the income tax, which has not been well-received by the public in the past when it was proposed. Increasing the sales tax also may create more problems because it is not based on one's ability to pay and hurts lower income people the most. And right now, an increase of two or three pennies on the dollar is not enough to make up the billions needed in order to eliminate the property tax.

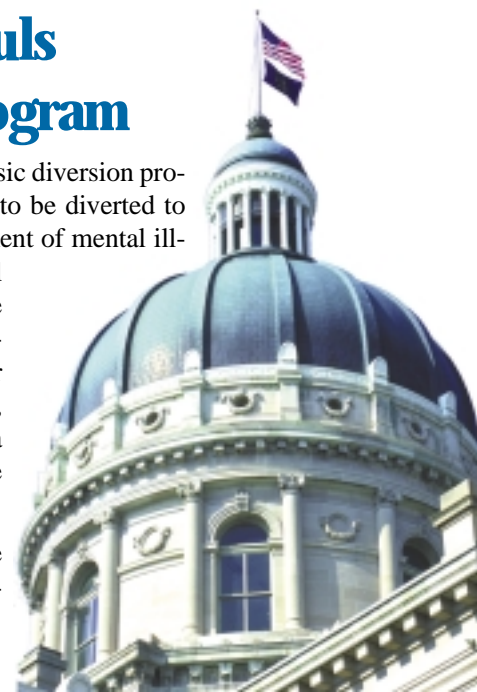
One of the reasons that this move toward elimination of the property tax is difficult for

see WHY, page 3

Legislature Overhauls Forensic Diversion Program

In the 2003 budget, the legislature created a forensic diversion program allowing offenders of non-violent crimes to be diverted to local community corrections program for treatment of mental illness or substance abuse problems. With the potential to reduce prison overcrowding, the intention of the program was to save taxpayer dollars while simultaneously rehabilitating those with mental illness or substance dependencies. The original program, which passed in the budget bill last year, was such a disaster that it was absolutely necessary to change the law this session.

Previously, the law allowed all charges to be dropped when an offender agreed to enter the program, — see FORENSIC DIVERSION, page 2



2004 Facts & Figures

The Second Regular Session
of the 113th General Assembly
began on Organization Day,
November 18, 2003,
and adjourned March 4, 2004.

This non-budget year is known as
the "short" session.

Senate bills introduced: 503
Senate joint resolutions introduced: 10

Senate bills passed: 18
Senate joint resolutions passed: 0

House bills introduced: 459
House joint resolutions introduced: 7

House bills passed: 80
House joint resolutions passed: 0

Percent of introduced bills that were
sent to the governor: 10%

For more information
about the General Assembly's
2004 session, visit us online at:
www.in.gov/legislative

Visit my site at:
www.in.gov/S37

DIVERSION PROGRAM

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leaving the violator's record clean. As a result, offenders could potentially enter the program an infinite number of times. The program also failed to exclude a number of criminals that many deemed a menace to society, including those charged with rape, kidnapping, and child molestation. Legislators remedied these problems by changing several stipulations.

House Enrolled Act 1437 now requires eligible offenders who have been charged with a non-violent misdemeanor or class D felony that can be reduced to a misdemeanor to plead guilty before participating in the program. This ensures that the program remains a rehabilitative tool and not a revolving door for criminals.

The legislature also revised the forensic diversion program to exclude certain criminals, such as sex offenders and violent offenders. Additionally, the new law establishes a Forensic Diversion Study Committee to evaluate the effectiveness and appropriateness of the program and to review the adequacy of funds. To help aid the study, we have also required the Department of Correction to provide the legislature with the current and anticipated costs of offender incarceration.

The improved forensic diversion program ensures that people suffering from mental illness or substance abuse problems receive the help they need to become law-abiding members of the community. While we want to reduce overcrowding in our state prisons, our goal is to continue to keep the citizens of Indiana safe.

SENATE JOINT RESOLUTION 7 — Would have begun the process of amending the state constitution to define marriage as the union of one man and one woman. Because it failed in the House, the earliest the provision could appear on the ballot is 2008. **FAILED.** My vote: YES

Fairness in Funding:



Full-day kindergarten should be implemented the right way.

During last year's budget session of the General Assembly, education was the legislature's number one priority. It was the only area in government that was given an increase during these difficult fiscal times. While surrounding states have cut education, Indiana worked hard to provide schools with a 3.3 percent increase in funding for Fiscal Year 2004 and a 2.9 percent increase in 2005, which was quite possibly more than the state can afford. This additional funding has placed Indiana 10th in the country in per pupil spending, a commitment we want to keep.

The state has drained every reserve account to make ends meet and provide schools with the money needed to continue essential programs for this budget cycle. The numbers from the most recent revenue forecast show that the state is not recovering as quickly as hoped and that the state needs to be cautious about what we are spending so we can keep the promise we made to our schools.

After an early start to our 2004 session, which officially began in mid-November, the governor suddenly decided that full-day kindergarten would be his top priority when he gave his State of the State address in January.

His first proposal was to fund the partial tuition of 20,000 full-day kindergarten

HOUSE ENROLLED ACT 1435 — I sponsored this to give Morgan County a representative on the Indianapolis Airport Authority Board of Directors to represent county's interests on proposed airport projects. **PASSED.** My vote: YES

pupils this fall. Parents were expected to pay for a portion of their child's extra hours at school. The governor proposed several shaky funding mechanisms to cover the remainder, including changing the state constitution to tap into an account reserved for schools' construction and renovation projects and diverting money from the already underfunded teachers' retirement fund.

When the bill reached the Senate, the majority agreed that the state simply does not have enough money right now to pay for a statewide full-day kindergarten program. At the end of the biennium, the state will have around \$65 million. All agree that early learning is important, which is why the Senate formed a committee to work this summer to find sustainable funding for the initiative. Unfortunately, Democrats decided that if they couldn't get funding this year, they were not interested in studying the issue this summer. The bill died in conference committee on the last night of the session.

We believe in Indiana's children, and we want them to have every opportunity to be successful. That is why it is important to approach new government programs and spending with a critical eye. We must first fund current obligations to public education before committing ourselves to spending more taxpayer dollars.

HOUSE ENROLLED ACT 1082 — Requires a review of entries in the Missing Children Clearinghouse within 60 days after the review required by laws governing reports made to the National Crime Information Center (NCIC). **PASSED.** My vote: YES

Indiana is 10th in the nation for per-pupil education spending. Education is the only area of government that received an increase in funding during hard economic times.

Predatory Lending

Bray Sponsors Legislation to Protect Hoosier Homebuyers

Indiana has an enviable record when it comes to the realization of the American Dream. We have one of the highest rates for home ownership in the U.S. This enviable record has come about in large measure because of a favorable regulatory climate and Hoosier frugality.

The explosion in home ownership across the country is due mainly to the availability of credit to those families who have less than good credit ratings. This sub-prime credit availability has been called by Alan Greenspan the "Democratization of Credit." Over the last two decades, tens of thousands of Hoosier families have found themselves in a position for the first time to buy a home.

HEA 1229 will extend real consumer protections, while insuring the availability of credit.

However, this availability of credit has led to a few unwanted side effects. Many families have not made the wisest decisions when handling credit or when it came to financing their homes. The second negative phenomenon has been the rise of fraud and other unscrupulous practices by individuals who are in the business of extending credit.

Beginning in the 2000 session, the legislature has been trying to come to grips with the more negative aspects of sub-prime lending. The challenge has been to extend greater consumer protections without curtailing the availability of credit.

Over the past several years, about half of the states have



During debate on predatory lending legislation in the Senate, Senator Bray looks up the current Indiana code to answer a question about the bill, of which he was the main Senate sponsor. The bill passed the Senate by a vote of 47-1.

adopted some sort of "predatory lending" law. In some of these states, the pendulum has swung too far in the direction of protection, thus curbing the availability of credit. In other states, some would argue, the pendulum did not go far enough to protect consumers.

In Indiana, I'm very happy to report that a balance has been struck. With the active support of the lending community, as well as that of consumer activists, we are the first state to achieve this balance.

HEA 1229, which I sponsored, will extend real consumer protections, while insuring the availability of credit. For the first time in this country, we will fund a Home Ownership Protection unit within the Attorney General's office that will actively pursue and prosecute predators involved in bilking home buyers.

Indiana conservatism usually means that we are not on the cutting edge of most issues. However, with the passage of HEA 1229, it quite likely will become a model for the rest of the country. Those states that have yet to address the issue, as well as those who have already enacted a "predatory lending" law, may want to take a close look at Indiana's solutions to this problem.

WHY CONTINUED FROM PAGE 1

governments is that it is a very stable form of revenue. In times of recession, such as the last several years when citizens' income levels were lower, sales and income tax collections decreased and the state has had trouble

HOUSE ENROLLED ACT 1194 — Opens the records regarding a child who died as a result of abuse, abandonment, or neglect. Requires background checks on all members of a household for child placements. **PASSED.** My vote: YES

funding essential government programs and services.

Legislators want to help those with high property tax bills. In the 2002 special session, the legislature raised the sales tax a penny and dedicated all of the money to property tax relief for homeowners. Currently, one third of the state budget goes

HOUSE ENROLLED ACT 1136 — Forms the Methamphetamine Abuse Task Force to develop a long range plan for combating the abuse and manufacturing of methamphetamine, also known as meth. **PASSED.** My vote: YES

toward property tax relief, dedicating over \$3.6 billion a year.

Work will continue to solve those problems that can be fixed immediately along with exploring ways to reduce the reliance on property tax and work toward solutions that reflect the concerns of all citizens.

HOUSE ENROLLED ACT 1273 — Amends the comprehensive health insurance association (ICHIA) law concerning premium rates, assessments, tax credits, provider reimbursement, provider contracting, and balance billing. **PASSED.** My vote: YES